IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

WP(C).No. 30602 of 2007(R)

PETITIONER:

M/S.ESSAR TELECOM INFRASTRUCTURE (P) LTD
41/256. C-19, SECOND FLOOR MATHER SQUARE,
OPP.NORTH RAILWAY STATION, COCHIN-682 018,
REPRESENTED BY EXECUTIVE (SITE ACQUISITIONS &
ADMINISTRATION) MR. RAHUL DAS.

BY ADV. SRI.SANTHOSH MATHEW

RESPONDENTS:

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1. UNNIKULAM GRAMA PANCHAYAT,
EKAROOL P.O., KOZHIKODE DISTRICT REPRESENTED BY
ITS SECRETARY.

2. THE REVENUE DIVISIONAL OFFICER,
KOZHZIKODE.

3. THE VILLAGE OFFICER, SIVAPURAM VILLAGE,
KOYILANDY TALUK, KOZHIKODE DISTRICT.

4. RATHISH, KELOTH HOUSE, EYYADAD DESOM,
SIVAPURAM VILLAGE, KOYILANDY TALUK,KOZHIKODE.
PIN - 670 005.

R2 & R3 BY SRI.K.J.MOHAMMED ANZAR, SR. GOVT. PLEADER.
R4 BY ADV.SRI.O.D. SIVADAS.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 30602 OF 2007

Dated this the 18th day of December, 2007

JUDGMENT

No counter affidavit has been filed by the Panchayat, though they have already been served with notice.

2. The construction of the tower has been completed on the basis of the interim order passed in this case. A reading of Ext.P2 complaint will show that the main ground of objection raised by the local public who moved the 2nd respondent is that the installation as well as the energisation of the mobile telephone tower shall cause serious health hazards to them.

The issue in my opinion is covered against the complainant by the judgment of this Court in **Reliance Infocom Ltd. v. Chemanchery Grama Panchayat** [2006(4) KLT 695]. Under these circumstances I permit the petitioner to energise the tower construction of which is already completed. It is however made clear that such energisation will be subject to the final orders to be passed by the Sub Divisional Magistrate, the 2nd respondent in any proceeding which has been initiated by him pursuant to Ext.P2 complaint. The 2nd respondent,

however, is directed to finalise the proceedings initiated by him only with notice to the petitioner and after hearing the petitioner also.

PIUS C. KURIAKOSE, JUDGE

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